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SUBJECT: Vietnam Moves to Abolish Decree 31

¶1. (SBU) Summary and Comment: On December 14, the National Assembly Standing Committee passed a resolution supporting a GVN proposal to abolish Decree 31, the measure that provides for "administrative detention" of those whose actions do not merit prosecution under the criminal code. Provided the decree is indeed lifted (and nothing takes its functional place), this is welcome news: we have long called on the GVN to abolish Decree 31 and lift its restrictions on individuals of concern such as UBCV monk Thich Quang Do.

¶2. (SBU) Our initial understanding is that those who are under court-ordered house arrest ("administrative surveillance") following their release from prison, such as Father Nguyen Van Ly and Pham Hong Son, will not benefit from Decree 31's abolition. Mission Vietnam will follow up with both the GVN and our individuals of concern to gauge when and to what extent Decree 31 and its related restrictions are indeed abolished. End Summary and Comment.

¶3. (SBU) According to the National Assembly's resolution supporting the abolition of Decree 31, from January 1, 2007, the GVN will no longer use administrative detention. Instead, authorities will rely on the judicial process to mete out punishment for actions identified in law as crimes. Furthermore, as of January 1, pending administrative detention orders will be cancelled, and existing administrative detentions will be lifted.

¶4. (SBU) Based on Decree 31, administrative detention is imposed on individuals whose acts violated the law and harmed the nation's interests, but were not serious enough to be charged under the criminal code. Minister of Justice Uong Chu Luu told the press December 14 that there were "many reasons" for ending administrative detention. For example, the denial of law violators' rights through an administrative decision is legally problematic. Furthermore, the implementation of the regulation has been "difficult." "In the context of Vietnam's judicial reform and in accordance with international norms, such denial should be made through judicial proceedings to protect citizens' rights," Minister Luu added.

¶5. (SBU) Comment: According to government sources quoted in the press, "very few" (197) people have faced administrative detention since 1997. That said, many individuals of concern to the USG, such as Unified Buddhist Church of Vietnam (UBCV) monk Thich Quang Do, are under "pagoda arrest" because of this measure. Provided there is no functional replacement for Decree 31, the announcement that the GVN is moving forward its abolition is welcome news. However, other individuals of concern who are under "house arrest" as part of their original judicial sentencing, such as Pham Hong Son and Father Ly, will not benefit from this change.

MARINE